

International Vessel Operators Hazardous Materials Association, Inc.

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December 30, 2002

Dockets Management System
U.S. Department of Transportation
400 Seventh Street SW
Room PL 401
Washington, DC 20590-0001

Re: **Docket No. RSPA-2002-13658 (HM-215E); Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions**
Comments on notice of proposed rulemaking

The International Vessel Operators Hazardous Materials Association (VOHMA) hereby offers its comments on the notice of proposed rulemaking (NPRM) published in the *Federal Register* on December 3, 2002, under Docket No. RSPA-2002-13658 (HM-215E) entitled **Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions.**

VOHMA is a United States based international association, with a membership comprised of thirty-seven ocean common carriers, operating under the flags of several nations, with the purpose of serving the domestic and international Trades in matters pertaining to vessel and

"Committed to the promotion of the safe handling and transportation of hazardous materials."

APL Limited ♦ Atlantic Container Line ♦ Australia New Zealand Direct Line ♦ Bermuda Container Line ♦ Canada Maritime Agencies Ltd. ♦ CMA-CGM America Inc. ♦ Columbus Line USA Inc. ♦ Compania Latino Americana de Navegacion SA ♦ Contship Container Lines ♦ Crowley Maritime Corporation ♦ CSX Lines, LLC ♦ Evergreen America Corporation ♦ Hanjin Shipping Company Ltd. ♦ Hapag-Lloyd Container Linie GmbH ♦ Hyde Shipping ♦ Hyundai Merchant Marine (America) Inc. ♦ Independent Container Line, Ltd. ♦ Italia Line ♦ "K" Line America, Inc. ♦ Lykes Lines Limited ♦ Maersk-Sealand ♦ Marine Transport Lines ♦ Maruba S.C.A. ♦ Mediterranean Shipping Co. ♦ MOL (America) Inc. ♦ The National Shipping Co. of Saudi Arabia ♦ NYK Line (North America) Inc. ♦ OOCL (USA) Inc. ♦ P & O Nedlloyd ♦ SAFMARINE Inc. ♦ Senator Lines (America) Inc. ♦ TMM Lines Ltd. ♦ Tropical Shipping ♦ Wallenius - Wilhelmsen Americas ♦ Zim-American Israeli Shipping Co. Inc.

intermodal transport of hazardous cargoes. The primary goal of VOHMA is to advocate and promote safe, consistent, and cost-beneficial transport of such cargoes based upon discussion and evaluation of issues impacting maritime operations and interconnecting feeder systems, and to develop consensus positions on all issues which may have a significant impact on transportation safety.

Our association is authorized under a United States Federal Maritime Commission (FMC) agreement and represents the worldwide Trades between the ports of the US, its territories and possessions, and all other countries. VOHMA members currently transport greater than eighty-five percent (85%) of the ocean freight container moves in the US Trades. Unlike other trade associations with diversified membership, VOHMA represents only ocean common carriers engaged in the transport of dangerous goods. The international registry of our membership provides us with a unique benefit of cultural diversity in topics brought forth for discussion or evaluation. Delegates representing member companies are, for the most part, those individuals with senior level management responsibility for regulatory compliance and risk minimization.

VOHMA welcomes the opportunity to comment regarding amendments proposed in this Docket to Title 49, Code of Federal Regulations. In this submission we will limit our specific comments to the incorporation by reference portion of the Notice for which the comment period will close on January 2, 2003, and which could most significantly impact safety in the maritime industry or in intermodal feeder systems. Additional comments will follow on those portions of the Docket for which the comment period closes on February 3, 2003.

VOHMA commends RSPA for this and other recent rulemaking activities which have enhanced domestic and international harmonization through adoption of the United Nations Recommendations on the Transportation of Dangerous Goods as published in the latest edition of the Model Regulations. Unique and parochial regulations cause confusion and negatively impact transportation safety while regulatory harmonization fosters safety through uniform application of common standards.

We encourage the US DOT to continue to align 49 CFR with those standards set out by the United Nations in their Model Regulations to facilitate seamless transportation of dangerous goods in international commerce by all modes of transport. Timely adoption by reference of the most current regulations set forth by the International Maritime Organization (IMO), updated to include the latest revision to those UN Model Regulations, is essential to harmonization. Most of the provisions of Amendment 31-02 of the IMDG Code, authorized for use in international vessel transportation as of January 1, 2003 and effective January 1, 2004, will for the first time become mandatory rather than recommendatory, making the adoption by reference even more crucial. While RSPA has stated their intention to address the mandatory code issue under a separate rulemaking prior to the effective date of January 1, 2004, many shippers and carriers will be modifying management systems and computer resources to recognize the authorized use of the Amendment 31-02 provisions during the ensuing weeks to ensure uninterrupted commerce on and after January 1, 2003. VOHMA encourages RSPA to continue their efforts toward achieving harmonization when drafting in the future proposed rulemaking to avoid any expensive and time consuming re-modifications to systems hardware or software.

This NPRM proposes numerous modifications regarding entries in the Hazardous Materials Table, descriptions on shipping papers, marking requirements for limited quantity packaging, revisions of restrictions for explosives transported in freight containers, revisions to clarify special provisions regarding aerosols, and other amendments to 49 CFR intended to reflect recommendations set forth by the UN Committee of Experts on the Transport of Dangerous

Goods. VOHMA supports in principle the RSPA initiative to adopt the proposed changes since, for the most part, they mirror those provisions of the IMDG that are being adopted by reference.

We are concerned that time constraints may interfere with RSPA's ability to reach the enforcement community with notification of these major changes, particularly in the shipping description sequence on intermodal documentation, and that unnecessary interruptions in commerce may occur. We therefore strongly urge RSPA to conduct an immediate outreach program through COHMED and all other channels possible to ensure that state, local, and federal enforcement officers are well aware of these amendments prior to January 1, 2003 authorization date. Enforcement personnel may also be confused by the transition schedule as proposed at §171.14 since the mandatory IMDG Code will become effective January 1, 2004, for international ocean transport and the domestic transition will not become effective until ten months later on October 1, 2004. They must recognize these authorizations and the implications of the difference in transition schedules in order to prevent unnecessary obstacles and delays in the safe and efficient transportation of hazardous materials.

Following a careful review of additional proposals within the NPRM, VOHMA may submit comments on behalf of our membership on the portion of the rulemaking for which the comment period ends on February 3, 2003.

VOHMA would like to express our appreciation for having the opportunity to provide our comments on this rulemaking and we hope you will find them helpful. We would further offer our assistance should you require clarification or expansion on our positions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John V. Currie", with a stylized, flowing script.

John V. Currie
VOHMA Administrator